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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,513	07/03/2001	Gregory J. LaRosa	1855.1052-020	5309

7590

09/17/2002

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EXAMINER

SALIMI, ALI REZA

ART UNIT	PAPER NUMBER
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1648

DATE MAILED: 09/17/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/898,513

Applicant(s)

LaRosa et al

Examiner

A. R. SALMI

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE One MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/8/02; 2/14/02; 1/23/02.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-43 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-10, 37-43, drawn to antibody or antigen binding fragment which binds CC-chemokine receptor 2, a composition comprising an antibody, and a method of treating a CC-chemokine receptor 2 mediated disorder in patients, classified in class 436, subclass 548, class 424, subclass 143.1, class 530, subclass 388.75.
- II. Claim 11, drawn to a kit for detecting the presence of mammalian CC-chemokine receptor 2, classified in class 435, subclass 7.92.
- III. Claims 12-16, drawn to a method of inhibiting the interaction of a cell bearing mammalian CC-chemokine receptor 2 with a ligand thereof, classified in class 435, subclass 7.1.
- IV. Claims 17-19, drawn to a method of inhibiting the interaction of a cell bearing mammalian CC-chemokine receptor 2 with a ligand thereof, classified in class 435, subclass 7.1.
- V. Claims 20, 33, drawn to a method of inhibiting HIV infection of a cell, classified in class 435, subclass 339.1.

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- VI. Claims 21-24, drawn to a method of detecting expression and method of detecting of CC-chemokine receptor 2 or portions thereof, classified in class 435, subclass 7.2.
- VII. Claims 25-26 drawn to method of inhibiting a function associated with binding a chemokine to a mammalian CC-chemokine, classified in class 435, subclass 335 .
- VIII. Claims 27-32, drawn to a method of detecting or identifying an agent which binds a mammalian CC-chemokine receptor 2, classified in class 435, subclass 69.5.
- IX. Claims 34-36, drawn to a method of inhibiting leukocyte trafficking in a patient, classified in class 424, subclass 173.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Groups I and III-IX are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the antibody of group I can be utilized in a diagnostic assay .

Inventions of Groups I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be

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separately usable. In the instant case, invention of Group I has separate utility such as inhibition of CC-chemokine receptor. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. R. Salimi whose telephone number is (703) 305-7136. The examiner can normally be reached on Monday-Friday from 9:00 Am to 6:00 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel, can be reached on (703) 308-4027. The fax phone number for this Group is (703) 305-3014, or (703) 308-4242.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

A. R. Salimi

9/12/2002


ALI R. SALIMI
PRIMARY EXAMINER